IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

Crl.MC.No. 176 of 2007(B)

CRA.270/2006 OF THE ADDL SESSIONS JUDGE (AD HOC)III, KASARAGOD.
CC.28/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, KANNUR
C.C.513/01 OF THE SESSIONS COURT, THALASSERY.
C.C.552/03 OF THE JFCM COURT-II, HOSDURG.

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PETITIONER:

KALATHIL RIYAS, S/O.ZUBAIR, C.NO.1916,
CENTRAL PRISON, KANNUR.

BY ADV. ADV.ARUN B VARGHESE (STATE BRIEF)

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 176 OF 2007

Dated this the 26th day of March, 2007

ORDER

This petition, registered under Sec.482 of the Cr.P.C. as a Crl.M.C., has been submitted by the petitioner – a prisoner in custody. His grievance is that he has not been given proper set off to which he is entitled to under Sec.428 of the Cr.P.C. Assistance of a legal aid counsel was sought. Advocate Mr. Arun B. Varghese has offered assistance to this Court.

2. Report of the Superintendent, Central Prison, Kannur, was called for and in the report dated 26/2/07, the Superintendent has given details of the convictions, set off and the balance period for which the petitioner will have to undergo imprisonment. It shows that the petitioner will have to be in prison till 7/4/07 if the fine amount is paid by him or till 7/10/07 if the fine amount is not paid by him. The learned counsel Mr.Arun B. Varghese requested that records may be called for. The relevant records have been called for. The records have been perused. It is now confirmed by the counsel that the details given in the report of the

Superintendent of Central Prison are correct and due and eligible set off has been granted.

3. The learned counsel finally prays that the discretion under Sec.427 of the Cr.P.C. may be invoked and there may be a direction that the sentences imposed in different cases in which the petitioner has been found guilty and convicted may be directed to run concurrently.

4. I do not find any satisfactory reason to invoke the discretion at this stage by invoking the powers under Sec.482 of the Cr.P.C. The offences are all distinct and separate. Concurrency has been given in each case wherever admissible. I am, in these circumstances, not persuaded to agree that this is a fit case where concurrency under Sec.427 of the Cr.P.C. can or ought to be granted.

5. In the result, this Crl.M.C. is dismissed.

6. A copy of this order shall be communicated to the petitioner in prison by the Registry and his acknowledgment shall be obtained.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. To Judge